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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,779	04/10/2001	Josemaria Garcia-Mina Freire	B-4158 618736-3	1554

7590 07/01/2003

Richard P. Berg, Esq.  
c/o LADAS & PARRY  
5670 Wilshire Boulevard, Suite 2100  
Los Angeles, CA 90036-5679

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 07/01/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/829,779</b>	Applicant(s) <b>Freire et al</b>
Examiner <b>Alton Pryor</b>	Art Unit <b>1616</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Apr 7, 2003

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 1-61 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4, 6, 8, 9, 15, 16, 31-33, and 40-45 is/are rejected.

7)  Claim(s) 5, 7, 10-14, 17-30, 34-39, and 46-61 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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The elected composition comprising dibutyryl cAMP, caffeine, forskolin, auxin, and N-ethanolamine is not allowable. See 35 U.S.C. 103(a). The election / restriction requirement is final.

***Claim Rejection under 35 U.S.C. 103(a)***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4,6,8,9,15,16,31-33,40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishioka et al (Plant and Cell Physiology, 1990, vol. 31 no. 1 pp 91-97), Suzuki et al (JP 62175402; 8/1/87), Jiang et al (CN 1116898; 2/21/96), and Mecca (US 2382326; 8/14/45) or Feng (CN 1033232; 6/7/89). Ishioka teaches plant growth promoting agents comprising dibutyryl cAMP, forskolin, and theophylline. See abstract. Ishioka does not teach plant growth promoting agents such as N-ethanolamine or auxin or caffeine. However, Suzuki teaches a composition comprising N,N-dimethylethanolamine as a plant growth promoter. See abstract. Jiang teaches a plant growth regulator comprising auxin. See abstract. Mecca or Feng teaches that caffeine is a plant growth stimulant / enhancer. See Mecca's column 1 line 21- column 2 line 3; See Feng's abstract. It would have been obvious to one having ordinary skill in the art to combine the prior art teachings to arrive at a single composition comprising dibutyryl cAMP, forskolin,

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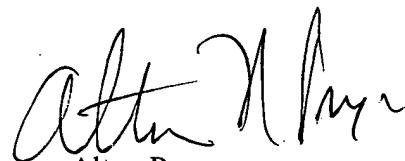
theophylline, N,N-dimethylethanolamine, auxin, and caffeine. One would have been motivated to do this in order to make a composition that would have been effective in plant growth development.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

  
Alton N. Pryor  
Primary Examiner  
Art Unit 1616

6/29/03